

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

GERALD DAVID BROWN,

Plaintiff,

v.

**Civil Action No. 5:07cv166
(Judge Stamp)**

**MR. OTTO, MR. PULICE, MR. BESS,
MR. STEVER, MR. GRIFFIN, MR. CORBETT,
MS. CHURCH, MS. GAUL and MS. LOHR,**

Defendants.

OPINION/REPORT AND RECOMMENDATION

On December 18, 2007, plaintiff initiated this case by filing a civil rights complaint against the above-named defendants. Because the plaintiff did not pay the required filing fee or file a request to proceed as a pauper, on December 19, 2007, the Clerk sent the plaintiff a deficiency notice. In the notice, the plaintiff was advised that he must either pay the required filing fee or file a request to proceed as a pauper if he intended to pursue this case further. When the plaintiff failed to comply with that order in the allotted time, the Court issued a show cause order directing the plaintiff to show cause why his case should not be dismissed for the failure to prosecute. A review of the file on this date shows that the plaintiff has not responded to that Order. Accordingly, it is recommended that this case be **DISMISSED without prejudice** for the failure to prosecute.

Within ten (10) days after being served with a copy of this opinion, any party may file with the Clerk of Court written objections identifying those portions of the report and recommendation to which objection is made and the basis for such objections. A copy of any objections shall also be submitted to the Honorable Frederick P. Stamp, Jr., United States District Judge. Failure to timely file objections to this opinion will result in waiver of the right to appeal from a judgment of this Court based upon such recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140

(1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).

The Clerk is directed to send a copy of this Opinion/Report and Recommendation to the *pro se* petitioner by certified mail, return receipt requested, to his last known address as shown on the docket.

DATED: February 29, 2008.

John S. Kaull

JOHN S. KAULL
UNITED STATES MAGISTRATE JUDGE